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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/270,639 03/15/99 FERGUSON

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PM82/0526

EXAMINER

ZANELLI, M

ART UNIT

PAPER NUMBER

3661

DATE MAILED:

05/26/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/270639

Applicant(s)

Ferguson

Examiner

Emelli

Group Art Unit

3661

---The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address---

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 3/15/99
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-6 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-6 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2
- ☒ Notice of References Cited, PTO-892
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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DETAILED ACTION

1. This application has been examined. Claims 1-6 are pending.
2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed. Applicant should note the deficiencies indicated on the enclosed Form PTO-948.
3. The IDS filed 3/15/99 has been considered.
4. Claim 5 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form. Claim 5 depends from both claim 3 and claim 4. Claims may depend from a previous claim(s) in the alternative only. Applicant may wish to rewrite claim 5 as an independent claim including all of the limitations set forth in claims 3 and 4. For the purpose of further examination on the merits, claim 5 will be interpreted in this manner.
5. Claims 1-6 are objected to because of the following informalities:
 - A. As per claim 1, the claim should be written as a single sentence, beginning with a capital letter and ending in a period. Applicant may overcome the above deficiency by changing "A" at line 4 to --a-- and changing the period at line 7 to a comma. Also note "chache" should be --cache-- and "date" should be --data--.
 - B. As per claims 3 and 4, insert --further-- before "consisting" since the claims further define the subject matter of claim 1.

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- C. As per claims 3 and 5, the claims recite a “magnetometer” for providing vehicle direction; however, the written description and drawings merely disclose “an electronic compass”.
- D. As per claim 6, at line 3 change “the” to --a-- as well the second and third occurrences at line 4. Also at line 4 “mean” should be --means--.
- E. All claims depending from an objected base claim are also objected to as containing the same deficiencies.
6. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- A. As per claims 1-6 in general, it is unclear whether applicant is claiming an apparatus or a method.
- B. As per claim 1, the claim is indefinite in scope because it recites both a broad limitation (“various vehicle systems”) followed by a narrower limitation (“such as in one preferred embodiment consisting of ...”). It is unclear if the claim is to be limited to the preferred embodiment. At lines 10-11 “the re-write cycle” lacks antecedence. Further, “up to 30 days or more” is an indefinite range. It is unclear whether 30 days is the minimum value or is included in a range starting from 0 days to infinity (i.e., “or more”).
- C. As per claim 2, “the host vehicle electrical system” lacks antecedence.

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D. As per claim 3, applicant is suggested to change "direction" to --heading-- to support language used in dependent claim 5. Applicant can also change "heading" (each occurrence) to --direction-- in claim 5 to overcome the deficiency.

E. As per claim 4, "the host platform or vehicle" lacks antecedence.

F. As per claim 6, the claim is unclear which memory (short term, cache, or non-volatile) is being activated by the power source as claimed.

G. All claims depending from a rejected base claim are also rejected as containing the same deficiencies.

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1-6 are rejected under 35 U.S.C. 101 because the applicant claims more than one statutory class of invention in a single claim.

A. Claims 1-6 are directed to a method and apparatus. As can best be determined, claim 1 is the only independent claim from which claims 2-6 depend. As highlighted above in the statutory language, a claim for an invention may only cover a single class of invention. If applicant wishes to claim his invention as encompassing an apparatus and a method of using that apparatus, then separate independent claims should be submitted (one apparatus, one method). Each independent claim could then be further defined with appropriate apparatus and method dependent claims.

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9. The examiner conducted a search of the most relevant prior art based on his best interpretation of the claims when viewed in light of the whole application. It appears that the multistage memory scheme used to record vehicle operating parameters during an accident trigger event is not taught or reasonably suggested by the prior art. To the contrary, the prior art appears to only retain data immediately before, during, and after a collision. Data collected outside these time periods are normally overwritten in a cyclic fashion. Applicant's invention appears to transfer the data to another memory device (i.e., cache) instead of overwriting previous data. Applicant further provides a non-volatile memory to store the contents of the cache in a more permanent manner (i.e., 30 days).

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited documents represent the general state of the vehicle crash recorder art. These references tend to use storing schemes of the overwriting-type in which data is retained only after an event (i.e., accident) has occurred by halting the overwriting of previously stored data.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Michael Zanelli** whose telephone number is **(703) 305-9756** (M-Th, 6:30-5:00 PM).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is **(703) 308-1113**.

/mjz
May 24, 2000


MICHAEL J. ZANELLI
PRIMARY EXAMINER